

This action is responsive to applicant's amendment/remarks filed 07/10/08.

The Power of Attorney filed 07/10/08 is entered and the Terminal Disclaimer(s) filed 01/17/08 are approved.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Update the CON data at **page 1** of the specification to the following:

--This application is a divisional of U.S. Ser. No. 10/123,028, filed Apr. 12, 2002, now U.S. Pat. No. 6,921,497, which is a continuation-in-part of U.S. Ser. No. 09/416,720, filed Oct. 13, 1999, now U.S. Pat. No. 6,572,792, issued Jun. 3, 2003, and a continuation-in-part of International Application No. PCT/US00/28549, which designated the United States and was filed on Oct. 13, 2000, published in English, which is a continuation of U.S. Ser. No. 09/416,720, filed Oct. 13, 1999. The entire teachings of the above applications are incorporated herein by reference.--.

Cancel claims **50** and **54**.

In claim **49**, line 1, delete "A composition" and replace with --A manufactured metal or alloy thereof--. At line 3, delete "composition" and replace with --manufactured metal or alloy thereof--.

In claim **51**, line 1, delete "The composition of Claim 49 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 49 wherein said metal or alloy thereof--.

In claim **52**, line 1, delete "The composition of Claim 49 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 49 wherein said metal or alloy thereof--.

In claim **53**, line 1, delete "A composition" and replace with --A manufactured metal or alloy thereof--. At line 4, delete "composition" and replace with --manufactured metal or alloy thereof--.

In claim **55**, line 1, delete "The composition of Claim 53 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 53 wherein said metal or alloy thereof--.

In claim **56**, line 1, delete "The composition of Claim 53 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 53 wherein said metal or alloy thereof--.

In claim **57**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 52 or claim 56 wherein said metal or alloy thereof--.

In claim **58**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 52 or claim 56 wherein said metal or alloy thereof--.

In claim **59**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The

manufactured metal or alloy thereof of Claim 52 or claim 56
wherein said metal or alloy thereof--.

In claim **60**, lines 1-2, delete "The composition of Claim 52
or claim 56 wherein said composition" and replace with --The
manufactured metal or alloy thereof of Claim 52 or claim 56
wherein said metal or alloy thereof--.

In claim **61**, lines 1-2, delete "The composition of Claim 52
or claim 56 wherein said composition" and replace with --The
manufactured metal or alloy thereof of Claim 52 or claim 56
wherein said metal or alloy thereof--.

In claim **62**, lines 1-2, delete "The composition of Claim 52
or claim 56 wherein said composition" and replace with --The
manufactured metal or alloy thereof of Claim 52 or claim 56
wherein said metal or alloy thereof--.

In claim **63**, lines 1-2, delete "The composition of Claim 52
or claim 56 wherein said composition" and replace with --The
manufactured metal or alloy thereof of Claim 52 or claim 56
wherein said metal or alloy thereof--.

In claim **64**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 52 or claim 56 wherein said metal or alloy thereof--.

In claim **65**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 52 or claim 56 wherein said metal or alloy thereof--.

In claim **66**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 52 or claim 56 wherein said metal or alloy thereof--.

In claim **67**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The manufactured metal or alloy thereof of Claim 52 or claim 56 wherein said metal or alloy thereof--.

In claim **68**, lines 1-2, delete "The composition of Claim 52 or claim 56 wherein said composition" and replace with --The

manufactured metal or alloy thereof of Claim 52 or claim 56
wherein said metal or alloy thereof--.

In claim **70**, line 1, delete "A composition comprising a transition metal" and replace with --A manufactured transition metal or alloy thereof--. At line 3, delete "composition" and replace with --manufactured transition metal or alloy thereof--.

In claim **71**, line 1, delete "A composition comprising a metal" and replace with --A manufactured transition metal or alloy thereof--. At line 4, delete "composition" and replace with --manufactured transition metal or alloy thereof--.

Authorization for this examiner's amendment was given in a telephone interview with Carolyn S. Elmore on 07/28/08.

The following is an examiner's statement of reasons for allowance:

The instant claims are allowed for the reasons set forth by applicant in the response filed 07/10/08.

Additionally, the instant description of "manufactured" and "metal or alloys of metals" at pages 13-14 of the instant specification are noted.

After consideration of the evidence as a whole, including the many factors discussed in detail in *In re Wands*, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988), the examiner agrees applicant has demonstrated that the disclosure as filed would have enabled the skilled artisan to make and use claimed invention commensurate in scope with the allowed claims.

It should be noted that the instant claims are drawn to existing materials that exhibit novel properties. As acknowledged by applicant in the response filed 06/02/06:

The applicant has presented 14 working examples with detailed XRF analysis that showed each of the manufactured ingots contains a different elemental signature from its corresponding natural occurring metal state. **There is no basis to conclude that the result is explained by impurities or the transmutation of metals. The manufactured ingots are still the same starting material,** but exhibit different electronic state scans from the original precursor in the GMS, XRF, PIXE, and GDOES analysis. Confirmation of these analysis from third party companies for the copper ingot is attached as a 1.132 Declaration (emphasis added).

As is evident from the prosecution history of this application and the parent application(s), the instant application disclosure proposes unproven scientific theory that may be construed as contrary to commonly accepted theories regarding quantum mechanics and interactions between various forms of matter. The instantly proposed theory includes changing the atomic orbitals of matter, as well as the introduction and definition of the terms "zurn" and "isozurn". However, differences between the claimed materials and the prior art materials could be result of atomic interactions which may

be described and predicted by the current and well-explored theories regarding the behavior of materials.

Allowance of the instant claims should not be construed as a validation by the United States Patent Office of applicant's unproved scientific theories. Applicant has demonstrated that the claimed materials (produced by specific heating and cooling operations under particular atmospheric conditions) are patentably different from the prior art of record. The provided 1.132 Declaration (in this application and parent application(s)) discloses third party confirmation of the claimed properties. The instant claims are enabled as the skilled artisan could follow the disclosed heating and cooling steps delineated by applicant in order to make and use the instantly claimed materials. Furthermore, the invention has at least one credible utility as disclosed in the specification and prior art. See, e.g., *Raytheon v. Roper*, 724 F.2d 951, 958, 220 USPQ 592, 598 (Fed. Cir. 1983), cert. denied, 469 U.S. 835 (1984).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Kopec whose telephone number is (571) 272-1319. The examiner can normally be reached on Monday - Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Kopec/
Primary Examiner, Art Unit
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MK
July 29, 2008